

March 9, 2006

Re: TARGETED CASE
MANAGEMENT CLAIMING

To: County Departments of Community Programs Directors
County Departments of Developmental Disabilities
Services Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
County Child Welfare Supervisors
County Crisis Intervention Supervisors
County Mental Health Supervisors
County Substance Abuse Supervisors
County Long Term Care Coordinators

From: Susan Reinardy
Deputy Secretary
Department of Health and Family Services

Background

Medicaid targeted case management (MA TCM) is an important resource to ensure children and adults obtain the specialized services and support they need. In Wisconsin MA TCM is used to coordinate these services for children receiving foster care services and other populations, including persons with chronic mental illness or developmental, physical, or sensory disabilities, the elderly, and children in need of early intervention care.

Wisconsin receives roughly \$20 million in federal MA TCM funds per year. DHFS claims \$10.5 million for the foster care population through the statewide Social Services Random Moment Time Study (RMTS). A portion of these funds is used by DHFS to fund Bureau of Milwaukee Child Welfare (BMCW) and WisACWIS costs. The remainder is distributed through the income augmentation plan process. Counties claim \$8.3 million on a fee-for-service basis for a number of target groups, including people with mental illness and developmental disabilities and children in the Birth-to-Three program. The amount claimed by counties includes fee for service claims for the foster care population in accordance with Division of Children and Family Services Memos 2004-17 and 2002-09. BMCW contract agencies also receive \$1.2 million in fee-for-service claims.

Federal Legislation

The federal Deficit Reduction Act of 2005 includes provisions which may restrict federal Medicaid claiming for targeted case management services. This memo is intended to inform county agencies of these changes in federal law which appear to 1) significantly narrow the extent that MA TCM may be claimed for children receiving foster care services and 2) possibly limit MA TCM reimbursement for other target population groups. The MA TCM provisions are effective January 1, 2006, and the legislation directs the federal Center for Medicaid and Medicare Services (CMS) to issue interim rules to implement the legislation.

The Deficit Reduction Act of 2005 defines case management in federal law as services that will assist Medicaid-eligible individuals in gaining access to needed medical, social, educational, and other services including:

- (I) Assessment of an eligible individual to determine service needs by taking a client history, identifying an individual's needs and completing related documentation, and if needed, gathering information from other sources;
- (II) Development of a specific care plan based on the information collected through an assessment that specifies the goals and actions to address the individual's needs;
- (III) Referral and related activities to help an individual obtain needed services; and
- (IV) Monitoring and follow-up activities including activities and contacts to ensure the care plan is effectively implemented and adequately addressing the individual's needs.

Foster Care Population: The Deficit Reduction Act of 2005 also includes the following language which could be interpreted as prohibiting access to any MA TCM funds for children receiving foster care services. "(C)ase management services...does not include the direct delivery of an underlying medical, educational, social, or other service to which an eligible individual has been referred, including, with respect to the direct delivery of foster care services, services such as (but not limited to) the following:

- (V) Research gathering and completion of documentation required by the foster care program.
- (VI) Assessing adoption placements.
- (VII) Recruiting or interviewing potential foster care parents.
- (VIII) Serving legal papers.
- (IX) Home investigations.
- (X) Providing transportation.
- (XI) Administering foster care subsidies.
- (XII) Making placement arrangements."

Items V, VI, VII and XII are activities for which the state claims MA TCM for non IV-E eligible children through the Social Services Random Moment Time Study (RMTS). In addition, counties are claiming MA TCM for these activities for IV-E eligible children on a fee-for-service basis.

All Populations: The following language is also included "...Federal financial participation only is available under this title for case management services or targeted case management services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other program." It is possible that this language could be interpreted as possibly eliminating Medicaid as a funding source for case management if any other federal, state, or local funding stream included case management as an allowable service without regard to whether funds are actually available. Community Aids is an allowable funding source for case management for any of these target groups. Even though Community Aids is a limited allocation, the federal language could be interpreted to make MA TCM claiming impossible, even if Community Aids funds are not available to fund the services.

Alternatively, these provisions could be interpreted to simply codify current federal policy regarding MA TCM claiming, in which case the impact could be less significant. However, the Congressional Budget Office estimated the provisions would generate \$760 million in savings nationwide over 5 years, indicating a more significant change in policy. In particular, the intent of the legislation appears to significantly restrict MA TCM claims for children receiving foster care services, and further claims for this population may be at risk of federal disallowance.

Summary

The combination of the limitation of MA TCM for children receiving foster care services and the designation of any "program" as a liable third party could lead to the federal CMS denying federal financial participation for case management activities that have been provided under Medicaid. The federal CMS has not yet issued implementation guidance. Pending implementation directives from the CMS, the Department of Health and Family Services (DHFS) intends to continue to claim MA TCM for non IV-E eligible children in out-of-home placements under the current methodology. DHFS recognizes that this claiming may be temporary and could require further restrictions on state claiming once further policy direction is issued by CMS. Further, DHFS recognizes that continuing to claim MA TCM presents a risk of disallowance for claiming beyond the effective date of the provisions, January 1, 2006.

County agencies should evaluate their current fee-for-service MA TCM claiming for IV-E eligible children receiving foster care services and other target groups in light of the provisions contained in the Deficit Reduction Act of 2005. Counties will continue to be reimbursed for their claims until the DHFS receives further direction from CMS. However, any disallowance related to county agency claiming will be the responsibility of the county. A copy of the provision related to Reforms of Case Management and Target Case Management is attached.

cc: Area Administrators
Human Service Area Coordinators
Bureau Directors
Program Office Directors/Section Chiefs
Tribal Chairpersons/Human Services Facilitators
Division of Management and Technology, Don Wamke

S.1932

Deficit Reduction Act of 2005 (Enrolled as Agreed to or Passed by Both House and Senate)

SEC. 6052. REFORMS OF CASE MANAGEMENT AND TARGETED CASE MANAGEMENT.

(a) IN GENERAL- Section 1915(g) of the Social Security Act (42 U.S.C. 1396n(g)(2)) is amended by striking paragraph (2) and inserting the following:

`(2) For purposes of this subsection:

`(A)(i) The term `case management services' means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.

`(ii) Such term includes the following:

`(I) Assessment of an eligible individual to determine service needs, including activities that focus on needs identification, to determine the need for any medical, educational, social, or other services. Such assessment activities include the following:

`(aa) Taking client history.

`(bb) Identifying the needs of the individual, and completing related documentation.

`(cc) Gathering information from other sources such as family members, medical providers, social workers, and educators, if necessary, to form a complete assessment of the eligible individual.

`(II) Development of a specific care plan based on the information collected through an assessment, that specifies the goals and actions to address the medical, social, educational, and other services needed by the eligible individual, including activities such as ensuring the active participation of the eligible individual and working with the individual (or the individual's authorized health care decision maker) and others to develop such goals and identify a course of action to respond to the assessed needs of the eligible individual.

`(III) Referral and related activities to help an individual obtain needed services, including activities that help link eligible individuals with medical, social, educational providers or other programs and services that are capable of providing needed services, such as making referrals to providers for needed services and scheduling appointments for the individual.

`(IV) Monitoring and followup activities, including activities and contacts that are necessary to ensure the care plan is effectively implemented and adequately addressing the needs of the eligible individual; and which may be with the individual, family members, providers, or other entities and conducted as frequently as necessary to help determine such matters as--

`(aa) whether services are being furnished in accordance with an individual's care plan;

`(bb) whether the services in the care plan are adequate; and

`(cc) whether there are changes in the needs or status of the eligible individual, and if so, making necessary adjustments in the care plan and service arrangements with providers.

`(iii) Such term does not include the direct delivery of an underlying medical, educational, social, or other service to which an eligible individual has been referred, including, with respect to the direct delivery of foster care services, services such as (but not limited to) the following:

`(I) Research gathering and completion of documentation required by the foster care program.

`(II) Assessing adoption placements.

`(III) Recruiting or interviewing potential foster care parents.

`(IV) Serving legal papers.

`(V) Home investigations.

`(VI) Providing transportation.

`(VII) Administering foster care subsidies.

`(VIII) Making placement arrangements.

`(B) The term 'targeted case management services' are case management services that are furnished without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B) to specific classes of individuals or to individuals who reside in specified areas.

`(3) With respect to contacts with individuals who are not eligible for medical assistance under the State plan or, in the case of targeted case management services, individuals who are eligible for such assistance but are not part of the target population specified in the State plan, such contacts--

`(A) are considered an allowable case management activity, when the purpose of the contact is directly related to the management of the eligible individual's care; and

`(B) are not considered an allowable case management activity if such contacts relate directly to the identification and management of the noneligible or nontargeted individual's needs and care.

`(4)(A) In accordance with section 1902(a)(25), Federal financial participation only is available under this title for case management services or targeted case management services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other program.

`(B) A State shall allocate the costs of any part of such services which are reimbursable under another federally funded program in accordance with OMB Circular A-87 (or any related or successor guidance or regulations regarding allocation of costs among federally funded programs) under an approved cost allocation program.

`(5) Nothing in this subsection shall be construed as affecting the application of rules with respect to third party liability under programs, or activities carried out under title XXVI of the Public Health Service Act or by the Indian Health Service.'

(b) REGULATIONS- The Secretary shall promulgate regulations to carry out the amendment made by subsection (a) which may be effective and final immediately on an interim basis as of the date of publication of the interim final regulation. If the Secretary provides for an interim final regulation, the Secretary shall provide for a period of public comments on such regulation after the date of publication. The Secretary may change or revise such regulation after completion of the period of public comment.

(c) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect on January 1, 2006.